

APPROVED MINUTES*
SUNNYVALE CITY COUNCIL
TUESDAY, DECEMBER 8, 2009

7 P.M. COUNCIL MEETING

CALL TO ORDER - Mayor Spitaleri called the meeting to order in the Council Chambers

SALUTE TO THE FLAG

ROLL CALL

PRESENT:

Mayor Anthony Spitaleri
Vice Mayor Christopher Moylan
Councilmember John Howe
Councilmember Ron Swegles
Councilmember Melinda Hamilton
Councilmember David Whittum
Councilmember Dean Chu

ABSENT:

None

STAFF PRESENT:

City Manager Gary Luebbers
Assistant City Manager Robert Walker
City Attorney David Kahn
Director of Public Works Marvin Rose
City Clerk Kathleen Franco Simmons

SPECIAL ORDER OF THE DAY

City Clerk Kathleen Franco Simmons issued the Oath of Office to the newly appointed Board and Commission Members: Tracy Seto, Arts Commission; Ted Ringel, Heritage Preservation Commission, and Mathieu Pham, Housing and Human Services Commission.

PUBLIC ANNOUNCEMENTS

None.

CONSENT CALENDAR

MOTION: Vice Mayor Moylan moved and Councilmember Swegles seconded to approve the Consent Calendar.

VOTE: 7-0

1.A. MOTION Approval of Information/Action Items – Council Directions to Staff

Fiscal Items

1.B. RTC 09-302 List of Claims and Bills Approved for Payment by the City Manager – List No. 482

Staff Recommendation: Review the attached lists of bills.

STAFF RESPONSES TO PRIOR PUBLIC COMMENTS

None.

PUBLIC COMMENTS

Tap Merrick stated he has not received a response to his October 20, 2009 comments regarding the Hexagon and Kaiser issue and questioned if that was because his letter was entirely accurate and did not require a response. Merrick requested Council consider issuing a study issue for a purchasing manager to handle all bids and requests for proposals, including those issued from the Department of Public Works. Merrick requested this position be responsible directly to Council and not the city manager.

Councilmember Swegles verified with the city manager that staff will be making a presentation at the first of the year regarding the purchasing process. City Manager Gary Luebbers explained that the City does have a purchasing manager who is part of the Purchasing Department within the Finance Department.

Merrick requested the city manager notify him once the date is set for the purchasing presentation.

Vice Mayor Moylan verified with City Attorney David Kahn that Merrick's second letter was received, however, staff determined that a response was not necessary. City Attorney Kahn responded that staff will review the letter once again and determine if a short follow-up is appropriate.

PUBLIC HEARINGS/GENERAL BUSINESS

**2. COUNCIL Discussion and Possible Action Regarding Stevens Creek Trail
DISCUSSION General Plan Amendment Committee**

Vice Mayor Moylan presented a report to Council from the Stevens Creek Trail Subcommittee. Vice Mayor Moylan stated members of the subcommittee consist of Councilmembers Hamilton, Whittum and himself. Vice Mayor Moylan explained that the subcommittee considered various input from the community and Bicycle and Pedestrian Advisory Commission and developed a positive replacement to the previous clause that was struck from the General Plan.

Councilmember Howe inquired why this item was not on the original agenda. City Manager Luebbbers explained that the item was originally intended to be on the agenda but did not make it on the agenda in error and therefore, a correction to the agenda was made on Friday.

Vice Mayor Moylan added that this item was on the agenda; however, it was mistakenly listed as a presentation and it was later corrected to allow consideration of action to be taken. Councilmember Howe stated his concern was in regard to whether the date for this item had been moved; however, as explained by the city manager that was not the case.

Public hearing opened at 7:17 p.m.

Tim Oey stated he is in favor of the new policy statement developed by the subcommittee, listed as Alternative 2, because it recognizes the need to develop more multi-use trails in Sunnyvale and balances this need with other City concerns.

Garth Williams offered his support for the policy statement developed by the subcommittee, listed as Alternative 2. Williams explained he has been very strong in not adding anything to the General Plan; however, the subcommittee crafted an excellent alternative which balances out the needs of the community and allows forward movement on the process.

Bicycle and Pedestrian Advisory Commission (BPAC) Chair Kevin Jackson thanked the subcommittee for allowing the commission's input. Jackson reported that the policy statement reflects all of the issues that the commission felt should be reflected and therefore, the commission supports Alternative 2. Jackson stated the public response to the proposed language at a recent commission meeting was extremely positive and it is clear the proposed policy is the type of policy residents would like to see guiding Council's decisions. Jackson stated the commission requests Council approve Alternative 2.

Patrick Walz, member of BPAC, speaking on his own behalf, thanked the subcommittee for allowing BPAC's input. Walz stated he supports either Alternative 2 or Alternative 1 which would not make any further changes to the General Plan at this time. Walz stated Alternative 2 improves upon BPAC's recommendation by identifying regional trails as opposed to Stevens Creek Trail, which will allow the policy to apply to other trails in the future.

Friends of Steven Creek Trail Executive Director Aaron Grossman stated members of the Friends group fully support Alternative 2.

Marianne Cali offered her support for Alternative 2 and thanked the subcommittee for their efforts at balancing conflicting priorities. Cali stated that during the outreach meetings, every environmental agency that spoke asked that an ecosystem study be done prior to any further development along the creek. Cali requested Council consider this request as the feasibility study begins.

Camie Hackson commended the subcommittee on the allowance of transparency and community input. Hackson stated she supports Alternative 2 as it will allow positive collaboration on the trail. Hackson expressed some concern over the absence of protection for private property and questioned the subcommittee why protection against eminent domain was not added. Vice Mayor Moylan explained that the subcommittee decided to include only positive statements. The policy statement is not focused solely on Stevens Creek, rather it is meant to apply to the entire City and therefore, the subcommittee felt it was important to address items that should be done. Vice Mayor Moylan stated that balancing the quality of life in residential neighborhoods is part of the policy statement.

Hackson responded that there are ways to add in positive statements that would respect private property. Hackson stated the concern over eminent domain is that it is an ongoing threat to residents and not addressing this in the policy statement is a missed opportunity to address that concern.

Arthur Schwartz offered his support for Alternative 2. Schwartz inquired if the City has a policy against eminent domain and Vice Mayor Moylan verified with the city attorney that the City does not have such a policy.

Fritz Stawitcke offered his support for Alternative 2. Stawitcke stated that the process of community involvement that was used for this issue, clearly leads to community building and a better future for Sunnyvale. Stawitcke encouraged Council to continue to find ways to improve community involvement when setting policies.

Public hearing closed at 7:32 p.m.

MOTION: Councilmember Howe moved and Councilmember Chu seconded to approve the subcommittee recommendation Alternative 2: Incorporate the following new policy statement into the general plan: "support proliferation of multi-use trails within Sunnyvale, and their connection to regional trails, in order to provide enhanced access to open space, to promote alternative transportation options, and to increase recreational opportunities, while balancing those needs with preservation of natural habitat, public safety, and the quality of life in residential neighborhoods."

Councilmember Chu inquired if it is appropriate to make this motion without further staff input. Director of Public Works Marvin Rose explained that Alternative 2 gives direction to staff to amend the General Plan and if the motion passes, staff will return to Council with a General Plan Amendment for review and then a hearing on this amendment will occur before the Planning Commission. Finally, a public hearing will be held when the item is returned to Council for adoption.

Councilmember Howe stated the subcommittee did a great job.

Vice Mayor Moylan explained approval of this change is step one in the process. Vice Mayor Moylan thanked his fellow committee members and all those who submitted language to the committee for consideration.

Councilmember Hamilton inquired as to when this item will come back to Council for review. Director Rose stated a date has not been set but he will get back to Council with a schedule in the city manager's bi-weekly report. Director Rose stated he expects the turnaround will be relatively quick.

Councilmember Hamilton inquired about extra noticing and Director Rose explained that since this item is a General Plan amendment, there will be opportunities for two additional hearings, during the Planning Commission and City Council meetings. City Manager Luebbers verified that staff will outreach to a larger audience than what is normally done in this situation.

Councilmember Hamilton thanked her fellow subcommittee members and all residents who gave input on this item.

Vice Mayor Moylan explained that a feasibility study is not currently underway, rather what is currently underway is the preparation of a grant proposal. Should the City obtain grant funds, those funds would be used for a feasibility study. Vice Mayor Moylan stated if funding is obtained, then staff will proceed with conducting studies and looking at alternatives for the Stevens Creek Trail. Sunnyvale has agreed to be the lead City for applying for the grant; however, all four cities involved will be signatories on the grant.

Mayor Spitaleri thanked everyone involved including the community and the subcommittee for all their work on this process and in working with the cities involved.

VOTE: 7-0

COUNCILMEMBER REPORTS ON ACTIVITIES FROM INTERGOVERNMENTAL COMMITTEE ASSIGNMENTS

Councilmember Swegles stated the Ombudsman program is in need of funding assistance and stated he is hopeful the City will be able to send support.

Councilmember Swegles announced that the *Californians to Protect Local Taxpayer and Vital Services Committee* met and will be offering a presentation at an upcoming Council meeting.

Vice Mayor Moylan provided an update on Santa Clara Valley Transportation Authority (VTA) nominations. Vice Mayor Moylan stated the City of Palo Alto has not yet chosen a nominee. Vice Mayor Moylan stated the election will be held at the end of this week.

NON-AGENDA ITEMS & COMMENTS

COUNCIL: Councilmember Hamilton announced the annual tree lighting will be held this weekend downtown.

Mayor Spitaleri requested to sponsor a study session on moving the City toward zero waste including recycling food waste. Director Rose responded that a zero waste study is ongoing and will incorporate food waste along with many other items. Director Rose stated he will supply Council with an updated report on the status of the study.

Vice Mayor Moylan stated during the study session earlier this evening, a new study issue was sponsored by two Councilmembers regarding a long-term ultimate solution for the electrical power issues in the City.

STAFF: None

INFORMATION ONLY REPORTS/ITEMS

- Tentative Council Meeting Agenda Calendar
- RTC 09-305 Opportunity for Council to appeal decisions of the Planning Commission of November 23, 2009 and the Administrative Hearing of November 25, 2009
- Draft Minutes of the Parks and Recreation Commission Meeting of November 11, 2009
- Draft Minutes of the Arts Commission Meeting of November 18, 2009
- Study Session Summary of November 24, 2009 – Board and Commission Interviews

ADJOURNMENT

Mayor Spitaleri adjourned the Council meeting at 7:47 p.m.

Kathleen Franco Simmons
City Clerk

Date